



State of Arizona
Board of Respiratory Care Examiners
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BOARD OF RESPIRATORY CARE EXAMINERS BOARD MEETING MINUTES

Thursday, November 20, 2008, at 9:00 a.m.
Basement Conference Room B-1
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Toni Rodriguez, Vice Chair Becky Brimhall (left meeting at 12:00 p.m.), James Love, John O'Donnell, David Sanderson and Bill Cohagen

Board Members Absent: Catherine Lindstrom

Staff Present: Mary Hauf Martin, Executive Director

David Geriminsky, Program and Project Specialist

Valarie Davis, Administrative Assistant

Board's Legal Counsel: Keely Verstegen, Assistant Attorney General

I CALL TO ORDER

The Meeting was called to order at 9:00 a.m. by Board Chair Toni Rodriguez, Ed.D.

DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

1. Review of a previous discussion regarding a request from Judie McGinnis, Director, Cardiopulmonary Services, Yuma Regional Medical Center, on the following Scope of Practice Issue: Conscious (or Moderate) Sedation

Board members reaffirmed that moderate sedation can be considered part of the Respiratory Care scope of practice based on interpretation of the law, given the practitioner has received advanced training and continuing education as specified by hospital policy. Board Chair, Dr. Rodriguez, stated that the Executive Director and she would compose a statement to this effect to be placed on the Agenda for approval at the December meeting.

2. Update on negotiations with NIC – Arizona, the company that runs the Web Portal of the State of Arizona regarding: updating, making necessary changes.

The Executive Director provided an update to the Board on issues/concerns with the new database. The biggest problem has been with the issuance of new license cards. The system has not performed the way that it was designed to function, subsequently, there have been delays in getting license cards (and their mailing labels) printed. Another issue involves the proper categorization in the system of license re-applicants. Board staff will continue to work with NIC – Arizona to get the most out of the new database.

3. Board office highlights.

The Executive Director provided an update to the Board

II APPROVAL OF MINUTES

Meeting held on October 16, 2008

John O'Donnell moved approval of the Minutes with two corrections. One to indicate the attendance at the meeting of Dr. Cathy Lindstrom; and one to correct the spelling of a name. **James Love** seconded. **The Motion passed.**

III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Deanna Avelar	Michelle Backof	Chelsea Berry
Girly Blanco	Shardey Billingsley	Cahterine Bowen
Kelly Bowery	Julie Colquist	Emily Craig
Ann Damby	Paul Daniels	Joseph Evensiosky
Jason Folks	Michelle Fry	David Gallant
Krista Garcia	Kristina Gariby	Christina Griffeth
Kathren Guenther	Ana Gutierrez	Tressa Hale
Jon Heake	Michelle Heydenreich	Miki Katcher
Jessica Kuhn	Murphies Law	Britni Little
Richard Longenecker	Sandra Martin	Jessica Middaugh
Alexandra Norton	Michelle Park	Danielle Petty
Christian Ramsey	Scott Ray	Monica Ruiz
Cari Sauer	Julie Shickel	Daniel Slamka
William Slattery	Marcus Stephens	Craig Strickler
Vincent Thomas	Cam Tran	Thomas Troy
Melissa Turf	Theresa Wagner	Robert Warfield
Derek Wespieser	Lady Williams	Trixie Zambrano

John O'Donnell moved approval of the aforementioned individuals recommended by the Executive Director. **Vice Chair Becky Brimhall** seconded the Motion. **The Motion passed.**

B. Application for Licensure/Interview

1. Amanda Callen	Case Number C002277-08-00000
2. Jeannette Sweet	Case Number C002376-09-00000

1. Amanda Callen Case Number C002277-08-00000

Ms. Callen was present. The Executive Director summarized Ms. Callen's situation, stating that she had provided the necessary documents establishing that she is eligible for permanent licensure. And, at the time her temporary license was issued, that license was placed on an order of rehabilitative probation. Board members indicated that they were willing to grant Ms. Callen her permanent license, on the condition that she continues to be on rehabilitative probation until she completes her treatment program. This, non-disciplinary, probation will enable the Board to have necessary oversight of its Licensee. Ms. Callen verbally indicated that she is aware that violation of any of the terms of her rehabilitative probation could result in disciplinary action, and that she will need to apply to the Board to have the probation lifted after she completes her treatment program.

After discussion, **Bill Cohagen** moved that Ms. Callen be granted a license continuing the terms of the probationary order linked to her temporary license. **John O'Donnell** seconded. **The Motion passed.**

2. Jeannette Sweet Case Number C002376-09-00000

Ms. Sweet was present. After discussion, the Board moved to table this item to a later agenda.

C. Re-Application for Licensure

Recommended for approval by the Executive Director

Steven Arnold
Daniel Mudrich

Adolph Esquibel
Dora Robertson

Nancy Marrs
John Robles

David Sanderson moved approval of the aforementioned individuals recommended by the Executive Director. **John O'Donnell** seconded the Motion. **The Motion passed.**

D. Ratification of Temporary Licenses Issued pursuant to A.R.S. §32-3521

Michelle Andrews
Brendon Becker
Courtne Crawford
Cody Feldman
Nichole Fye
Ricardo Leon
Diana Patton
Linda Phillips
John Rivera
Brian Stebbings

Eduardo Armenta
Shirley Bounds
John Distefano
Juana Flores
Fatmata Kamara
Alex Mahantan
Margaret Perech
Jason Richlin
Brandi Saiz
Darlene Stephens

Shannon Ball
Sherry Breeding
Bobbie Gray
Robert Frank
Janet Kelly
Elvis Mustafic
Rebakah Perkins
Christopher Rick
Amy Schrader
Brandy Tripp

Travis Vigileos
Rodger Wilbur

Bret Viney
Adam Winter

John Voornies

John O'Donnell moved ratification of the aforementioned individuals Temporary Licenses. **David Sanderson** seconded the Motion. **The Motion passed.**

E. Ratification of Temporary License Extension Issued pursuant to A.R.S. §32-3521

Matthew Blond

Bryan Gaona

Mariella Martinez

John O'Donnell moved ratification of the aforementioned individuals Temporary License Extensions. **David Sanderson** seconded the Motion. **The Motion passed.**

IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Recommended for closing of application files.

Lucas Holzman

Julie Richards

Bill Cohagen moved that the Board administratively close the application files of the aforementioned individuals. **John O'Donnell** seconded. **The Motion passed.**

V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

Recommended for closing of inactive files.

Nicolas Agins
Matthew Coy
Monte Marshall
Eric Mills
Jessica Reichheld
Michael Vincent

Levi Becker
Veronica Lear
Radar Matt
Ellen Monroe
Carmen Revelle
Susanne Wilkerson

Michael Carrera
Michael Loyd
Steven Mendenhall
Dave Ott
Roberta Sabadin
William Winkler

Joshua Cassel – Deceased

The Executive Director stated that these were routine two year inactive license files.

Vice Chair Becky Brimhall moved that the Board administratively close the two year inactive files of the aforementioned individuals. **John O'Donnell** seconded. **The Motion passed.**

VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

Notice of License Expirations to the following individuals:

Thomas Arsenault	Maria Balonlong	David Beerman
Thomas Brooks	Richard Carpenter	Mark Davis
Ann Ellison	Tommy Faulks	Thomas Hammond
Sheryl Houser	Carolyn Hughes	Dale Kahl
Peter Monzon	Nancy Owings	Debra Parson
Alberto Perez	Lisa Rahman	Michael Sandos
Annette Sias	Chekki Stansberry	Stephanie Steffens
Leandra Wallace	Michelle Weidauer	Carla Wilder

The Executive Director stated that these were routine license expirations.

Bill Cohagen moved to approve the license expirations of the aforementioned individuals. **Chair Toni Rodriguez** seconded. **The Motion passed.**

VII DISCUSSION/ACTION ON RATIFICATION OF RENEWAL OF LAPSED LICENSES

Ratify licenses issued by the Executive Director to individuals who met requirements for renewal.

Yvette Cayedito	Jose Cervantes	Teddy Crowther
Madonna Fager	Brent Grundstorm	Jennifer Mennenga

The Executive Director reported that these were routine Expired license renewals.

David Sanderson moved to ratify the aforementioned Expired license renewals. **John O'Donnell** seconded. **The Motion passed.**

VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. John Jones	Complaint Number	C002375-09-003985
2. Susana Ruybalid	Complaint Number	C002287-09-003731
3. Ronald Pepperack	Complaint Number	C002304-09-004284
4. Ronald Pepperack	Complaint Number	C002288-09-004284
5. Jeannette Sweet	Complaint Number	C002376-09-000000

1) John Jones Complaint Number C002375-09-003985

Mr. Jones was present. The Executive Director summarized the allegation of unprofessional conduct against Mr. Jones. After discussion, **John O'Donnell** moved to issue a **Letter of concern** because while there is insufficient evidence to support direct action against his license. If he has another incident of disorderly conduct, or conduct of a similar nature that is not the behavior expected of a health care professional, it may result in disciplinary action.

David Sanderson seconded. **Becky Brimhall** voted **Nay**. **The Motion Passed.**

2) Susana Ruybalid Complaint Number C002287-09-003731

Ms. Ruybalid appeared telephonically and was represented by her attorney Shiloh Hogardt, also telephonically. The Executive Director summarized the allegation of unprofessional conduct against Ms. Ruybalid. After discussion, **David Sanderson** moved to dismiss the complaint. **John O'Donnell** seconded. **The Motion Passed.**

3) Ronald Pepperack Complaint Number C002304-09-004284

Mr. Pepperack was not present. The Executive Director summarized the allegation of unprofessional conduct against Mr. Pepperack. Two complaints were received by the Board against Ms. Barthel. One complaint was that he was terminated from an employer within his 90 day probation period for poor attendance, and on his last shift being a "No Call No Show." The other complaint was similar; it was that he was terminated for being a "No Call No Show" on April 05, 2008 and April 06, 2008. Prior to the September 18, 2008 meeting, all mail that had been sent to Ms. Barthel had been returned in the mail as "Unable to forward." A proposed Consent Order was prepared by the Board and sent to the address he provided at the time of the September meeting via certified mail. The Proposed Order was returned by the Post Office.

Mr. Pepperack was invited, in writing, to attend the November 20, 2008, in a letter sent to his address of record.

All attempts made by the Board to contact Mr. Pepperack were unsuccessful.

In light of the above, the Board held a public meeting on November 20, 2008 to determine whether there was reason to believe that Ms. Barthel had:

failed to sign and return a proposed Consent Order that would allow the Board to have oversight of an individual who has chronic substance abuse issues;

failed to provide a current address; and

Due to his documented history of substance abuse, where regulation can only be accomplished through drug testing and other mechanisms that are established in a Consent Order, is unsafe to practice.

After discussion, Bill Cohagen moved to Summarily Suspend the license of Mr. Pepperack to practice Respiratory Care as he posed an imminent threat to public safety. John O'Donnell seconded. The Motion Passed.

4) Ronald Pepperack Complaint Number C002288-09-004284

This Agenda Item was taken with Agenda Item VIII(3)

5) Jeannette Sweet Complaint Number C002376-09-000000

Ms. Sweet was present. The Board took no action at this time and tabled this item until a

later meeting.

IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

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|------------------|------------------|-------------------|
| 1. Patricia Herd | Complaint Number | C002294-09-005912 |
| 2. Aimee Hoffman | Complaint Number | C002184-08-007474 |
| | | |
| 1) Patricia Herd | Complaint Number | C002294-09-005912 |

Ms. Herd was present with her attorney Mr. Terry Hall. The Executive Director reviewed the allegation of unprofessional conduct against Ms. Herd, which was that

“On May 22, 2008, two employees reported to administration that they received inappropriate sexual photographs ... In Both cases, the sender of this information was Ms. Herd ... Later in a phone conversation Ms. Herd admitted to sending these pictures. On June 06, 2008, a resident of Plaza commented to a staff member that he had heard Ms. Herd no longer was employed. Later in the conversation, this resident stated that Ms. Herd showed him naked pictures of herself using her phone.”

In light of the above, and pursuant to A.R.S. § 32-3553(H), the Board held a public meeting on November 20, 2008, to conduct the informal interview. License and her attorney were present. Information was presented to the Board to substantiate the information in the Complaint. Board members found the information to be true, that Licensee’s actions constituted unprofessional conduct, and they expressed great concerns about this being the third time Licensee has appeared before the Board on issues related to unethical, unprofessional decision making. Board members stated that it may be possible, by requiring the completion of an ethics course and through the imposition of a Decree of Censure, to have the Licensee learn how to act ethically and professionally.

After consideration and discussion, **Bill Cohagen** moved to place the license of Patricia Herd on probation (with the primary term being the completion of an ethics class) and to issue a Decree of Censure. **Jim Love** seconded. **The motion passed.**

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|------------------|------------------|-------------------|
| 2) Aimee Hoffman | Complaint Number | C002184-08-007474 |
|------------------|------------------|-------------------|

Ms. Hoffman was not present. Her legal counsel filed a motion for a continuance. The Board took no action on this complaint at this time, and voted to grant the requested continuance.

X CONSIDERATION AND ACTION ON FORMAL COMPLAINT HEARINGS PURSUANT TO A.R.S. §32-3553(G)

- | | | |
|-------------------|------------------|-----------------|
| 1. Vicky Barthel | Complaint Number | 7541-08-2333 |
| 2. Wade Heatherly | Complaint Number | C002351-09-0000 |
| 3. Nisha Fischer | Complaint Number | C004537-07-2264 |

1) Vicky Barthel Complaint Number 7541-08-2333

Ms. Barthel was present telephonically. The case was presented by Keely Verstegen, Assistant Attorney General, on behalf of the State of Arizona. Ms. Barthel has an addiction to narcotics. This is a condition that impairs judgment and can place the safety of patients, and the public, at risk.

An investigation into this matter began on or around August 13, 2007, when a letter was received from Daniel Faretta.

On or about September 12, 2007, Ms. Barthel informed the Board in a letter that she voluntarily admitted herself to Banner Behavioral Health hospital on September 07, 2007.

On or about January 15, 2008, Ms. Barthel was witnessed hallucinating, with her eyes rolling back in her head. A 911 Emergency Call was made. Ms. Barthel displayed the behaviors of someone who is abusing pain medications.

On November 20, 2008, the Board held its monthly meeting to consider suspending or revoking Ms. Barthel's license to practice respiratory care. The State called the following witnesses: Board Executive Director Mary Hauf Martin and Daniel Faretta. Respondent was not represented by legal counsel; she testified on her own behalf and called Brenda Sue Oliver as a witness. Both sides called witnesses and presented evidence. At the conclusion of the case, the Board found that a preponderance of evidence was presented to support the information in the allegation. The position presented by the State of Arizona revolved around the fact that Ms. Barthel has not Ms. Barthel to all of the Board's attempts to establish regulatory oversight over her; therefore, at this time she is not able to be regulated.

After discussion, **John O'Donnell** moved to adopt Findings of Fact and Conclusions of Law as set forth in the Complaint and Notice of Hearing. **Bill Cohagen** seconded. **The motion passed.**

After further discussion, **Bill Cohagen** moved to **Revoke** Ms. Barthel's license to practice respiratory care in Arizona. **David Sanderson** seconded. **The motion passed.**

2) Wade Heatherly Complaint Number C002351-09-0000

Mr. Heatherly was present. Assistant Attorney General Keely Verstegen and Executive Director Mary Hauf Martin explained the allegations brought against Mr. Heatherly's license. After discussion, **Bill Cohagen** moved to dismiss this complaint. **James Love** seconded. **The Motion passed.**

3) Nisha Fischer Complaint Number C004537-07-2264

Ms. Fischer was not present. The case was presented by Keely Verstegen, Assistant Attorney General, on behalf of the State of Arizona, as follows:

Term Number One of Ms. Fischer's Order of License Suspension states:

“Nisha L. Fischer, RCP, holder of license number 7985, is hereby notified that the Board has ordered the SUSPENSION of her license to practice respiratory care until the following occurs:

Within 30 days, Ms. Fischer shall provide the Board with documents that establish:

- Contact Information for all physicians who have given her prescriptions since January 2007.
- Contact Information for all pharmacies where she has had prescriptions filled since January 2007.
- Within 15 days of being notified, in writing, that her complete file has been obtained by the Board, Ms. Fischer shall make an appointment with an approved drug and alcohol evaluator and inform the Board Staff of the date and time of her evaluation so that a complete copy of her records can be forwarded to the evaluator prior to her appointment.
- Within 45 days of being notified, in writing, that her complete file has been obtained by the Board, Ms. Fischer shall have the evaluation completed and instruct her evaluator to provide his or her report directly to the Board.”

The Board received the following Documents from Ms. Fischer that may constitute compliance with Term Number 1.A of her Order:

July 21, 2008 – Walmart Pharmacy Profile

July 21, 2008 – Ms. Fischer’s Patient documents from Saint Joseph’s Hospital

July 14, 2008 – Patient Documents from Doctor Salaheddine Tomeh

July 29, 2008 – Patient Documents from the doctors office of Goodman & Partridge.

The Board has not received a request to have her file copied and provided to a qualified individual who would perform a drug and alcohol evaluation, therefore Respondent has not complied with Term 1.B of her Order.

The Board has not received a drug and alcohol evaluation; therefore Respondent has not complied with Term 1.C of her Order.

On November 20, 2008, the Board held its monthly meeting to consider suspending or revoking Respondent's license to practice respiratory care. Respondent was served by U.S. certified mail with the Board’s Complaint and Notice of Hearing which gave Respondent notice of the time, place and location of the meeting. The Board’s Complaint directed Respondent to respond to the allegation in writing. Respondent filed a letter stating that she would not be attending the hearing, but not asking for a continuance. The Board heard testimony and reviewed all of the information available.

At the conclusion of the case, the Board found that a preponderance of evidence was presented to support the information in the allegation. **Bill Cohagen** moved to adopt Findings of Fact and Conclusions of Law as set forth in the Board's Complaint and Notice of Hearing. **John O'Donnell** seconded. **The Motion passed.**

Vice Chair Becky Brimhall stated that the Respondent is now beyond the ability to be rehabilitated, or regulated. After further discussion, **Vice Chair Brimhall** moved to revoke Respondent's license to practice respiratory care in Arizona. **Board Member John O'Donnell** seconded. **The motion Passed.**

XI CONSIDERATION AND ACTION ON PREVIOUS BOARD ACTION

Informal Interview Regarding Probation Compliance

- | | |
|--------------------|---|
| 1. Renee Kiourkas | Case Number 02955-07-2293 |
| 2. Michael Ryan | Case Number 01062-07-2306 |
| 3. Jerry Meade | Case Numbers C002299-09-004904
C002300-09-004904 |
| 4. April Grace | Case Number 02211-06-7781 |
| 5. Ronald Crandell | Case Number C002224-08-1959 |
| 6. Brian Moore | Case Number C002135-08-6892 |
| 7. Susana Ruybalid | Case Number 03731-07-2284 |
| 8. Amanda Callen | Case Number C002277-08-00000 |

1. Renee Kiourkas Case Number 02955-07-2293

Ms. Kiourkas was present telephonically. After discussion, **David Sanderson** moved to lift Ms. Kiorkas's Probation. **Bill Cohagen** Seconded. **The motion passed.**

2. Michael Ryan Case Number 01062-07-2306

Mr. Ryan was present. The Board took no action at this time.

3. Jerry Meade Case Numbers C002299-09-004904
C002300-09-004904

Mr. Meade was present. Mr. Meade petitioned the Board to lift his temporary agreement not to practice respiratory care. After discussion, **Bill Cohagen** moved to lift the Temporary Agreement not to practice and place Mr. Meade back onto his existing Probationary Order. **James Love** Seconded. **The motion passed.**

4. April Grace Case Number 02211-06-7781

Ms. Grace was present. The Board took no action at this time.

5. Ronald Crandell Case Number C002224-08-1959

Mr. Crandell was not present. In November 2008, a compliance review was conducted on Respondent's file. It appeared that he was out of compliance with one or more terms of his Order as follows:

Term 3. Evaluation:

Licensee shall identify a counseling program with qualifications regarding appropriate boundaries.

Licensee shall inform Board Staff, in writing, of the name of the counseling program.

- Deer Valley Counseling
2801 W Dunlap Rd, Ste 206, Phoenix AZ 85021 602-750-8051
Counselor: Sandra Nettles

Licensee shall report to the Board, in writing, regarding recommendations made by his counseling program. The aforementioned counseling program shall be provided with a copy of this Order by Licensee.

Licensee must:

Make an appointment with a counselor within 15 days.

(Compliance check – information received to indicate that 07/25/2008 was the scheduled date of his evaluation appointment.)

Have his evaluation completed within 45 days.

(Non-Compliance check: no evaluation received by Board)

Follow-through with completing therapy that is recommended by his counseling program, providing information about his compliance with the recommendations to the Board.

(Non-Compliance check: No copy of Respondent's evaluation received to be able to determine what counselor recommends.)

The Board felt that Respondent appeared to be in violation of the following Terms of his Order: Terms Number 3.2, 3.5 and 4.

After discussion, **John O'Donnell** moved to take this matter to the

level of a Formal Hearing. **David Sanderson** Seconded. **The motion passed.**

6. Brian Moore Case Number C002135-08-6892

Mr. Moore was not present. Mr. Moore's license is on probation. After a compliance check, it appears that Mr. Moore is non-compliant with one or more areas of his probation. After discussion, **James Love** moved to take this matter to the level of a Formal Hearing. **Bill John O'Donnell** Seconded. **The motion passed.**

7. Susana Ruybalid Case Number 03731-07-2284

Ms. Ruybalid appeared telephonically and was represented by counsel, Mr. Shiloh Hogardt. The Board took no action at this time.

8. Amanda Callen Case Number C002277-08-00000

This Matter was taken with Agenda Item III(B)(1)

XI CALL TO THE PUBLIC

Licensee Michael Burk made a statement to the Board.

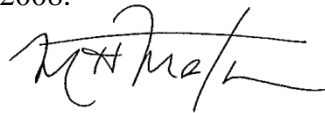
XIII ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, December 18, 2008 at 9:00 a.m.

XIV ADJOURNMENT

Chair Toni Rodriguez adjourned the meeting at 4:10 p.m., without objection

DATED this 10th day of December, 2008.



Mary Hauf Martin, Executive Director